

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sruthi Venigalla	Team: Squad #13	CCRB Case #: 201509205	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/27/2015 2:35 PM	Location of Incident: Staten Island Ferry Terminal	Precinct: 120	18 Mo. SOL 4/27/2017	EO SOL 4/27/2017	
Date/Time CV Reported Tue, 10/27/2015 9:07 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 10/27/2015 9:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Castaldo	06682	950173	PBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eric Betzold	20549	942994	PBSI
2. POM Thomas Quevedo	05154	951094	PBSI

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Castaldo	Force: PO Daniel Castaldo used physical force against § 87(2)(b)	

## Case Summary

On October 27, 2015, § 87(2)(b) filed this complaint through the CCRB's website on behalf of a man identified by the investigation as § 87(2)(b) hereafter, § 87(2)(b) and § 87(2)(b) appeared at the CCRB on November 12, 2015 and March 10, 2016 respectively, to provide statements about the incident. § 87(2)(g)

On October 27, 2016, at approximately 2:35 p.m., § 87(2)(b) and § 87(2)(b) were within the Staten Island Ferry Terminal in Staten Island after having exited the ferry coming from Manhattan. § 87(2)(b) was on her way to the train station, while § 87(2)(b) was on his way towards the exit doors leading to the Staten Island Yankees stadium. § 87(2)(b) had attended a rally for a person who was wrongfully shot by the police. He recalled carrying a flyer from the rally, but could not recall what he was wearing or if he was carrying anything else.

Before reaching the exit doors, § 87(2)(b) observed a uniformed officer, identified by the investigation as PO Daniel Castaldo of Patrol Borough Staten Island, near the exit doors by a pillar. § 87(2)(b) recognized PO Castaldo from an encounter, a few months back, the date of which he could not recall. During the encounter, § 87(2)(b) had been wearing a kufi and unprovoked, PO Castaldo had allegedly called § 87(2)(b) a "raghead." On this date, PO Castaldo was standing with a group of officers identified by the investigation as PO Thomas Quevado and PO Eric Betzold, also of Patrol Borough Staten Island. Although the terminal was crowded, § 87(2)(b) had a clear line of sight. Ten feet ahead of her, she also observed § 87(2)(b) whom she did not know, and a group of uniformed officers standing together near him.

§ 87(2)(b) observed § 87(2)(b) place his index finger in the air and say in a calm and nonthreatening voice to one of the officers, "You sir, are a dipstick." § 87(2)(b) did not know what had preceded this, and did not hear him use profanity or make any other comments prior to this or after this. § 87(2)(b) provided a different account of the circumstances leading up to his interaction with the officers: PO Castaldo stared at § 87(2)(b) as if he "owed PO Castaldo money." § 87(2)(b) continued walking and when he passed PO Castaldo, § 87(2)(b) from 7 feet away, called PO Castaldo "an asshole." § 87(2)(b) said nothing else and continued walking. In response, PO Castaldo asked § 87(2)(b) to come towards him. § 87(2)(b) stopped walking, turned around and walked back toward PO Castaldo with his arms held at his sides, without saying anything else or threatening PO Castaldo. § 87(2)(b) heard PO Castaldo make some comments, but § 87(2)(b) could no longer recall what PO Castaldo said.

§ 87(2)(b) and § 87(2)(b) stated that without any verbal remark, PO Castaldo immediately "lunged" at § 87(2)(b) by grabbing both of § 87(2)(b) shoulders and violently shoved him into an adjacent pillar such that his side and shoulders made contact with the pillar. § 87(2)(b) did not remain upright and was about to fall, when PO Castaldo grabbed him again and shoved him to the ground such that his back side and head made contact with the ground. PO Castaldo then knelt in front of § 87(2)(b) who remained on the ground, "flipped" him over to the front side of his body and handcuffed him quickly (**Allegation A**). § 87(2)(b) said that no other officer made physical contact with § 87(2)(b) or assisted PO Castaldo in handcuffing him. However, § 87(2)(b) stated that additional officers, whom he could not see because he was face down, assisted PO Castaldo in handcuffing him.

While he was handcuffed, § 87(2)(b) heard § 87(2)(b) say, "I didn't do anything" two times, and moved his upper body around. § 87(2)(b) did not observe any injuries on § 87(2)(b). Because of the size of the crowd, § 87(2)(b) continued walking towards the train station.

§ 87(2)(b) sustained pain in his arm as a result of this. He also observed that many people had gathered. PO Castaldo then stood § 87(2)(b) to his feet and walked him to a stationhouse within the Staten Island Ferry Terminal. PO Castaldo seated § 87(2)(b) on a bench outside the stationhouse, searched § 87(2)(b) pants pockets and recovered his identification. PO Castaldo then walked inside the stationhouse and came back a while later to return § 87(2)(b) identification and issue him a summons for § 87(2)(b) before releasing him.

#### **Ferry Terminal Video Transcription (See Board Review 78)**

There are four videos, and the timestamps on them appear to be accurate with what time of day it was. They are in color. None of them contain audio, and none of the videos are up close enough to identify the officers by name, command, or shield number. The videos are titled as follows:

1. 045-PTZ W. CORR. I F O W.R. DOORS 2015-10-27
2. 081-FXD TURNSTILES CENTER 2015-10-27
3. 110-FXD W.R. MAIN ENTRY DOORS 2015-10-27
4. 156-PTX W.R. NPORTH-BENCHES NYPD ROOM 2015-10-27

#### **Video 1 - 045-PTZ W. CORR. I F O W.R. DOORS 2015-10-27**

The camera is facing a long, wide corridor. Starting at 2:25 p.m., three officers are standing beside each other on the left side of the screen, and lots of people are walking through the ferry terminal. At 2:27:19 p.m., § 87(2)(b) can be seen walking toward the officers from behind. He is a black male wearing a black jacket, jeans, sneakers, and a skull cap, and he is carrying a plastic bag in his left hand. As he passes the officers, he says something to them. § 87(2)(b) walks out of the camera shot, and the officers do too. Starting at 2:27:50 p.m., the people walking through the ferry terminal begin to stop and stare. No police allegations, however, can be observed.



3\_2015-12-02\_10-46-40.mp4

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#### **Video 2 - 081-FXD TURNSTILES CENTER 2015-10-27**

The camera is facing a long row of turnstiles, and behind the turnstiles is a long row of glass doors. At 2:28:55 p.m., PO Castaldo brings § 87(2)(b) through the doors. There are three other officers who walk past the camera. All appear to be white males. After 2:29:30 p.m., nothing further of the incident is captured.



2016-04-22\_16-47-39.mp4

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#### **Video 3 - 110-FXD W.R. MAIN ENTRY DOORS 2015-10-27**

The camera is facing a long row of glass doors. At 2:27:22 p.m., § 87(2)(b) walks past the officers (on the right side of the screen), and he appears to say something to the officers. At 2:27:30 p.m., § 87(2)(b) walks into the middle of the camera shot. He is carrying a plastic bag in his right hand and what looks like a rolled up newspaper in his left hand. At the right side of the screen, three police officers are standing beside each other, more than ten feet away from § 87(2)(b). From this distance, § 87(2)(b) faces the officers and appears to be speaking to them, as

he is gesturing and pointing toward them. He then walks toward the officers while still pointing at them. § 87(2)(b) however, stops about three feet in front of the officers. For approximately three seconds, starting at 2:27:46 p.m., § 87(2)(b) points at PO Castaldo in particular with his left hand, but the pointing is not more than gesturing while talking. PO Castaldo grabs § 87(2)(b) at the front of his body, shoves him back against a kind of broad pillar with an advertisement on it. § 87(2)(b) right side strikes the pillar. PO Castaldo grabs § 87(2)(b) again and shoves him to the ground, onto his front. At about 2:27:50 p.m., § 87(2)(b) is on the ground, and by 2:28:04 p.m., he appears to be handcuffed by PO Castaldo. At 2:28:50 p.m., § 87(2)(b) is stood to his feet and walked away through the glass doors.



2015-12-01\_15-13-38.mp4

#### Video 4 - 156-PTX W.R. NPORTH-BENCHES NYPD ROOM 2015-10-27

The camera is facing a lot of seats, similar to an airport waiting area. At 2:29:14 p.m., PO Castaldo walks past the camera with the victim, who is in handcuffs. Their backs are to the camera. § 87(2)(b) is seated on a bench, and about five officers stand around him. There is an unidentified police stationhouse in the ferry terminal adjacent to the benches (at the top left of the screen). Various officers stand around § 87(2)(b) for about 20 minutes and come and go from inside the stationhouse. At 2:51 p.m., § 87(2)(b) is instructed to stand up, and he is unhandcuffed by unidentified officers. After § 87(2)(b) is unhandcuffed, he sits back down. At 2:56:50 p.m., PO Castaldo walks out of the stationhouse and hands § 87(2)(b) a pink piece of paper, possibly a summons, and at 2:57 p.m., § 87(2)(b) leaves.



2015-12-02\_11-06-46.mp4

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined mediation as a way to resolve her complaint.
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- As of April 19, 2016, neither § 87(2)(b) nor § 87(2)(b) have filed notices of claim in regards to this incident.

### Civilian and Officer CCRB Histories

- § 87(2)(b) has not filed any previous complaints with the CCRB.
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]

- PO Castaldo has been a member of the NYPD for four years. He has been involved in 19 other allegations involving seven cases. In CCRB case number 201311018, allegations of a retaliatory summons, discourteous language, and a frisk were substantiated. In CCRB case number 201312036, allegations of a retaliatory summons, stop and search of person were also substantiated. PO Castaldo received charges for all allegations substantiated by the CCRB. His CCRB officer history § 87(2)(g) there are five allegations; discourteous and offensive language of which there are six allegations; and retaliatory summons for which there are two allegations.

## **Findings and Recommendations**

### **Allegation A - PO Daniel Castaldo used physical force against § 87(2)(b)**

It is undisputed that PO Castaldo used physical force towards § 87(2)(b) though the circumstances leading up to the force is in dispute. PO Castaldo stated that § 87(2)(b) spoke rudely to PO Castaldo unprovoked, from about ten feet away within the Staten Island Ferry Terminal in Staten Island. PO Castaldo could not recall if § 87(2)(b) was carrying anything or what § 87(2)(b) said, but PO Castaldo said it was consistent with what he wrote in his memo book. His memo book notes: “Def statements spontaneous. You pussy faggots are not going to do shit” (See Board Review 80). PO Castaldo did not respond, and § 87(2)(b) kept walking.

However, after § 87(2)(b) walked about forty to fifty feet away, he turned around and walked back toward PO Castaldo raising his arms above his waist, yelling and continuing to speak rudely toward PO Castaldo. PO Castaldo thought § 87(2)(b) was emotionally disturbed based on these actions, and he considered § 87(2)(b) actions to be violent and threatening and felt they constituted disorderly conduct. People in the terminal also gathered to watch. Although PO Castaldo did not suspect § 87(2)(b) of possessing a weapon, PO Castaldo said he felt concern for his safety as § 87(2)(b) approached him because there was a heightened safety alert for officers at the time of the incident. PO Castaldo could not attribute this heightened safety alert to anything in particular other than that it was issued by the federal government and was called a “Bowler alert.”

When § 87(2)(b) got within two to three feet of PO Castaldo, PO Castaldo moved forward, grabbed § 87(2)(b) pushed him against a column and pulled him to the ground. PO Castaldo said the takedown happened quickly, and § 87(2)(b) did not resist while standing. PO Castaldo assumed that § 87(2)(b) shoulders hit the column. PO Castaldo could not recall how § 87(2)(b) landed on the ground. On the ground, however, § 87(2)(b) came to be on his front, and he had one arm trapped under his body. It took PO Castaldo about a minute to pull out § 87(2)(b) arm and handcuff him behind his back. PO Castaldo thought another officer or officers assisted him in § 87(2)(b) apprehension, but PO Castaldo could not assert this with certainty and could not describe at all who helped him and if so, how.

PO Betzold (See Board Review 79), who had been standing behind closed glass doors, heard muffled shouting coming from § 87(2)(b) From approximately 30 to 40 feet away, PO Betzold observed PO Castaldo remain standing until § 87(2)(b) approached him, at which point, PO Castaldo pushed § 87(2)(b) into the terminal on his front as soon as the man got very close to him. At this point, PO Betzold ran out through the glass doors to assist PO Castaldo in placing the man in handcuffs, which took approximately five seconds. PO Taylor resisted handcuffing by attempting to lie on his arms, and becoming rigid. From an unrecalled vantage point, PO Quevedo

(See Board Review 81) observed § 87(2)(b) whom he thought was emotionally disturbed, on the ground with PO Castaldo on top of him. PO Quevedo did not see what preceded this, and he did not know how § 87(2)(b) and PO Castaldo came to be on the ground.

§ 87(2)(g)

Video 3 (summarized above) shows § 87(2)(b) facing the officers and speaking to them, while gesturing and pointing at them from more than ten feet away. § 87(2)(b) walks toward the officers while still pointing at them and stops approximately three feet away from PO Castaldo. § 87(2)(b) continues to point as a means of gesturing and not more. PO Castaldo then grabs § 87(2)(b) at the front of his body, shoves him back violently against a broad pillar, such that his right side strikes the pillar. PO Castaldo grabs § 87(2)(b) again and shoves him to the ground, onto his front.

NYPD Patrol Guide Procedure 203-11 states that officers are required to use the minimum necessary force to overcome resistance, and when the use of force against a subject becomes clearly excessive, officers are required to maintain control or intervene (See Board Review 75).

§ 87(2)(g)

§ 87(2)(g)

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date